UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,296	02/14/2006	Miikka Huomo	P2647US00	3516

30671   7590   01/07/2010
DITTHAVONG MORI & STEINER, P.C.
918 Prince Street
Alexandria, VA 22314

EXAMINER
YOO, JASSON H

ART UNIT	PAPER NUMBER
3714	

NOTIFICATION DATE	DELIVERY MODE
01/07/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@dcpatent.com

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of Group I, claim 1-10 in the reply filed on 9/30/09 is acknowledged. The traversal is on the ground(s) that the claims of the present application would be part of an overlapping search. This is not found persuasive because Applicant has not described what part and to what extend the claim contains an overlapping search. It appears that the overlapping elements in the groups are configurations files stored in a memory, and using the configurations files to set up game parameters. However, these elements are not considered a group of technical features that defines a contribution over the prior art since any game that comprises different type of configurations would have these limitations. The differences of where the configuration files are stored, how they are retrieved, and what is used to configure the game parameters are considered to be the technical features since each differences would change the physical components of an invention and how the components operate. As indicated in the Requirement for Restriction/Election mailed 7/30/09, the groups lack unity because the groups do not share the same technical features.

The requirement is still deemed proper and is therefore made FINAL.

Claims 11-19 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 9/30/09.

35 USC § 112 6th paragraph

Claim 1 recites the claim limitation of means for identifying the current device configuration, means for using the data structure, and means for controlling the game. Claims 6-8 incorporate the claim limitations of means for updating the data structure, means for controlling the game, and means for temporarily controlling. The means for are not modified by functional language, sufficient structure, material or specified function, and thus invoke 35 USC 112 sixth paragraph. The claim limitations of means for identifying the current device configuration, means for using the data structure, means for controlling the game, means for updating data structure and means for temporarily controlling the game will be interpreted as a processor as indicated in Applicant's specification paragraphs 20, 43, 46, 53.

Furthermore, claim 5 incorporates the claim limitation of means by which the user selects a sub-set of parameters. The "means" is not modified by sufficient structure, material or acts and thus will be interpreted as a user input device 18, according to paragraphs 18-19, 21, 33 of Applicant's specification.

Claim Rejections - 35 USC § 112

Claims 1-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 1-10 incorporates the claim limitation of, "a memory storing a data structure that <u>associates each one of a plurality of device configuration with a respective game configuration</u> wherein each game configuration differently specifies one or more parameters of the game." Applicant's specification fails to disclose how the data structure associates a plurality of device configuration with a respective game configuration. Applicant's specification (paragraph 37) discloses that updating the data structure may enable the game configuration associated with a particular device configuration to be updated. Paragraph 47 also discloses that game parameters may be associated with the device in the data structure. However, there is no description on how a data structure associates each one of a plurality of device configuration with a respective game configuration.

Furthermore, Applicant specification discloses both game configuration and device configurations are used to change game parameters (paragraphs 26, 30, 32, 37-39, 46-53). However, the specification does not clearly define the terms "device configuration" and "game configuration" or describe how the two terms are different. Paragraph 36 states that the set of game parameters associated with a physical device configuration may be referred to as a game configuration. Thus it appears that the terms "device configuration" and "game configuration" both refer to data that modifies a game according to game parameters. Therefore it is not clear how the data structure associates a plurality of device configurations with a respective game configuration if the device configuration is a game configuration.

The claims will be examined based on the Examiner's best understanding of the claims.

Claim 1 recites the limitation "the current device configuration" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Tatsuta (US 2002/0125318).

Claim 1. Tatsuta discloses **a gaming device** (Fig. 1 and 40) **for playing a game including one or more parameters that affect a user's participation in the game** (game parameters including character, weapons, techniques, items, stats, capabilities, see abstract, paragraphs 140, 165-174), **the gaming device comprising:**

a memory storing a data structure (According to Applicant's specification paragraphs 36-38, 46, it appears that a data structure 17 is game data that can be modified according to different game configurations. Tatsuta also discloses a memory,

202, to store game data that can be modified according to different game configuration,

paragraphs 92, 174, 177) **that associates each one of a plurality of device**

configurations with a respective game configuration [Tatsuta discloses the memory

202 stores game structure/data that is modified to store data pertaining to a plurality of

device configurations (code data and restored information, paragraphs 105, 151) by

scanning a plurality of different cards (Fig. 40, paragraph 165). Each code data and

restored information is associated with a game configuration by specifying how a game

is modified according to different parameters (paragraphs 110, 171).], **wherein each**

game configuration differently specifies one or more parameters of the game

(parameters including character, weapons, techniques, items, stats, capabilities,

paragraphs 110, 165-174);

      means for identifying the current device configuration for the device (CPU

107 identifies the current device configuration for the device read from the code 401,

and CPU 302 identifies the current device configuration for the device read from the

memory 202. See paragraph 105);

      means for using the data structure to determine a current game

configuration associated with the current device configuration (CPU 302

determines a current game configuration according to an application program by

reading the data and parameters stored in the RAM 202. See paragraphs 94, 174,

179); and

      means for controlling the game by setting parameters in the game as

specified by the current game configuration (CPU controls the game according the

game program and the parameters of the game configuration. See paragraphs, 92, 94,

99, 174, 179).

     Claim 2. Tatsuta discloses that **the game comprises gaming objects and the**

at least one game configuration specifies a parameter that creates a gaming

object (parameters to create weapons, protectors, magic; paragraphs 166-168).

     Claim 3. Tatsuta discloses that **the gaming comprises at least one user**

gaming object (game character such as animal, person, monster; paragraphs 165-168)

and the created gaming object affects an attribute of the user gaming object

(weapons, protectors, magic are used by the game character; paragraphs 166-168).

     Claim 4. Tatsuta discloses that **the game comprises at least one gaming**

object (weapons, protectors, magic are used by the game character; paragraphs 166-

168) **and at least one user gaming object** (game character such as animal, person,

monster; paragraphs 165-168) **and at least one game configuration specifies a**

parameter that affects an attribute of the gaming object or an attribute of the user

gaming object (Character can have attributes of techniques, strength, power, hit-point,

and offensive and defensive capabilities as disclosed in paragraphs 166-168. Items can

also have attributes such as magical power or hidden power as disclosed in paragraph

167).

Claim 5. Tatsuta discloses that **the gaming device further comprising means by which the user selects a sub-set of parameters specified in the current game configuration for use as parameters in the game** (Using the operating section 305 in Figs. 1 and 40 to play the game, parameters of power data/items may be selectively used. See paragraphs 167, 174).

Claim 6. Tatsuta discloses **means for updating the data structure** (Memory, 202, to store game data that can be modified by the processor 302 for different game configuration, paragraphs 92, 105, 174, 179)

Claim 7. Tatsuta discloses **means for controlling the game by setting parameters in the game as specified by previous game configurations** (Tatsuta discloses the modified parameters are used when they are selected. For example, user can select the parameters of a weapon, magical technique, etc. See paragraph 174. Therefore the CPU controls the previous parameters to be used until the new parameters are selected. For example, a character with no weapon or an old weapon is used until the new weapon is selected. Furthermore, if the previous game configurations are obtained from a card, the CPU can control the game with parameters specified by previous game configuration but load data from the previous card.).

Claim 8. Tatsuta discloses **means for temporarily controlling the game by setting parameters in the game as specified by a virtual game configuration**

associated with a virtual device configuration selected by the user (Game program

is executed by the CPU 302 as disclosed in paragraphs 92 and 94. Virtual game items

and powers controlled according to the game program by the CPU can be used

temporarily for a predetermined period of time. See paragraph 67.).

Claim 9. Tatsuta discloses **means for controlling the game, are operable to**

set parameters in the game as specified by the current game configuration at the

instantiation of the game (As discussed above, the game controlled by the CPU by

executing the game program. The game parameters can be a game character as

disclosed in paragraph 166 and 168. Thus the game parameters are set at the

instantiation--or at the start of the game play using a character specified by the game

parameters.).

Claim 10. Tatsuta discloses that **the parameters set at the instantiation of the**

game are variable while the game is played (This limitation is interpreted that game

parameters can change for a game session as suggested in paragraphs 25 and 37 of

Applicant's specification. Tatsuta discloses that there a plurality of different game

configuration with different game parameters. See paragraphs 165 and 170. Thus

variable game parameters are set at the instantiation of the game when a different

game configuration is used for a game session.).

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by

Final Fantasy game manual (game released date: July 12 1990).

Applicant's specification discloses that a game configuration may specify

parameters that specifies game objects, user game objects, or attributes. The game

object may be an accessory that can be obtainable during normal game play (paragraph

32 of Applicant's specification). The claimed invention is directed to a gaming machine

comprising a memory to store a data structure with device configurations associated

with a game configuration which specifies one or more game parameters, and modifying

the game according game parameters. The claims are broad enough to read on any

game that has a game character or a game object, in which the game character or the

game object can be replaced or modified. The feature of having characters, game

objects, or attributes that can be replaced or modified is well known in the art within

Role-playing games. An example of such Role-playing game is Final Fantasy. Final

Fantasy is role-playing game for the Nintendo Entertainment System (hereinafter as

"NES") released on July 12 1990. Final Fantasy game manual (hereinafter as "FF1")

will be used to describe the claim limitation below.

Claim 1. FF1 discloses **a gaming device** (FF1 is a game manual for a game

program in NES. Thus it is inherent that NES is used to play the game.) **for playing a**

game including one or more parameters that affect a user's participation in the

game, the gaming device comprising:

   a memory (Final Fantasy is a game which is inherently stored in an NES game

cartridge) **in storing a data structure** (game data that is inherently stored in with the

game program within the memory) **that associates each one of a plurality of device**

configurations (data pertaining to character, equipment, items, page 11, 15, 35) **with a**

respective game configuration (each data is associated to how the game in

configured or how the game is played**), wherein each game configuration differently**

specifies one or more parameters of the game (The game configuration specifies a

parameter associated to character, magic, items, character attributes, item attributes,

magic attributes that can be obtained during the game. See pages 3, 10-15, 19, 21, 34-

35, 45, 50, 75-79.);

   means for identifying the current device configuration for the device (NES

inherently comprises a processor to identify the selected, equipped, purchased, or

earned device configuration);

   means for using the data structure to determine a current game

configuration associated with the current device configuration (NES inherently

comprises a processor to use game data and determine the game configuration

associated with the device configuration); and

   means for controlling the game by setting parameters in the game as

specified by the current game configuration (NES inherently comprises a processor

to set the parameters specified by the selected game configuration. See pages 3, 10-

15, 19, 21, 34-35, 45, 50, 75-79.).

Claim 2. FF1 discloses that **the gaming comprises gaming objects and the at least one game configuration specifies a parameter that creates a gaming object** (weapons, armor, magic, items; pages 10-15).

Claim 3. FF1 discloses that **the gaming comprises at least one user gaming object** (game character; pages 3, 34-35) **and the created gaming object affects an attribute of the user gaming object** (objects are used by characters, pages 19-23).

Claim 4. FF1 discloses **the game comprises at least one gaming object and at least one user gaming object and at least one game configuration specifies a parameter that affects an attribute of the gaming object or an attribute of the user gaming object** (Parameters can specify different attributes of weapon, armor, magic, i.e. white magic, black magic, level; see pages 13, 19, 45. Parameters can specify different attributes of character, such as restore, HP; pages 14-15, 19, 31. There are different character attributes according to the selected occupation; page 35).

Claim 5. FF1 discloses that **the gaming device further comprising means by which the user selects a sub-set of parameters specified in the current game configuration for use as parameters in the game.** (For example, the parameter may be an occupation of a white mage for the character; page 35. There are different types of magic spell to select from using the control pad, page 19).

   Claim 6. FF1 discloses **means for updating the data structure** (Processor

inherently updates the game data to the selected game configuration. For example,

updating the data structure so that the parameters are set to specified equipment; page

12.).

   Claim 7. FF1 discloses **means for controlling the game by setting**

parameters in the game as specified by previous game configurations (Processor

inherently controls the game to specify a previous game configuration. For example,

selecting previous equipment; page 12.).

   Claim 8. FF1 discloses **means for temporarily controlling the game by**

setting parameters in the game as specified by a virtual game configuration

associated with a virtual device configuration selected by the user (Processor

inherently controls the game to set the game parameters. FF1 discloses that certain

parameters are temporary available in the game. For instance, when equipment is

replaced as described in page 12, or a potion is used as described in pages 15, 19,

21.).

   Claim 9. FF1 discloses **means for controlling the game, are operable to set**

parameters in the game as specified by the current game configuration at the

instantiation of the game (Processor inherently controls the game to set the game

parameters. FF1 also discloses that parameters pertaining to type of character,

equipment and items are set at the instantiation of the game when the type of character

is selected, when the equipment is equipped, or when the item is used. See pages, 3,

12, 15, 19, 21).

Claim 10. FF1 discloses that **the parameters set at the instantiation of the**

game are variable while the game is played (The type of character is variable, the

equipment is variable and the item used is also variable. See pages, 3, 12, 15, 19, 21,

34-35).

Conclusion

The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

Siegel (US 2003/0134679) discloses that character data obtained from an

external device is used for game configuration that specifies one ore more parameters

of the game. The parameters may include different characters, attributes, and items

(see abstract).

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to JASSON H. YOO whose telephone number is (571)272-

5563. The examiner can normally be reached on 9:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on (571) 272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jasson H Yoo/
Examiner, Art Unit 3714